



91117-97

DEPARTMENT OF STATE

DEPARTMENT OF HOMELAND SECURITY

Immigration Policy

DHS Docket No. USCIS-2014-0014

AGENCY: Department of State; Department of Homeland Security.

ACTION: Notice of Request for Information.

SUMMARY: On November 21, 2014, the President issued a memorandum for the heads of executive departments and agencies on the subject of modernizing and streamlining the U.S. immigrant and nonimmigrant visa system for the 21st century. The Memorandum directs the Secretaries of State and Homeland Security, in consultation with various other Cabinet secretaries and the White House, to make recommendations to streamline and improve the Nation's legal immigration system. Such efforts should focus on reducing Government costs, improving services for applicants, reducing burdens on employers, and combatting waste, fraud, and abuse in the system, while safeguarding the interests of American workers. This notice solicits public input to inform the development of those recommendations.

DATES: Responses must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be considered.

ADDRESSES: You may submit comments by any of the following methods:

- **E-mail:** USCISFRComment@uscis.dhs.gov. Include *Visa Modernization* in the subject line of the message.
- **Online:** You may access the [Federal Register](#) Notice and submit comments via the Federal eRulemaking Portal Web site by visiting www.regulations.gov. In the search box

either copy and paste, or type in, the e-Docket ID number USCIS-2014-0014. Click on the link titled Open Docket Folder for the appropriate Notice and supporting documents, and click the Comment Now tab to submit a comment;

- Mail: Attn: Laura Dawkins, Chief of the Regulatory Coordination Division, USCIS Office of Policy and Strategy, 20 Massachusetts Avenue NW, Washington, DC 20529-2140.

Instructions: Response to this RFI is voluntary. Responses exceeding 30 pages will not be considered. Respondents need not reply to all questions listed below; however, respondents should clearly indicate the number of each question to which they are responding. The Department of Homeland Security and the Department of State request that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

The full text of the November 21 Memorandum is available at:

<http://www.whitehouse.gov/the-press-office/2014/11/21/presidential-memorandum-modernizing-and-streamlining-us-immigrant-visa-s>

The White House Fact Sheet describing the President's Immigration Accountability Executive Actions of November 20 is available at:

<http://www.whitehouse.gov/the-press-office/2014/11/20/fact-sheet-immigration-accountability-executive-action>

Note that the November 21 Presidential Memorandum, and this RFI, are not focused on potential Federal Government actions that were announced as part of the President's Immigration Accountability Executive Actions of November 20. Rather, this RFI seeks recommendations on

improving and modernizing the legal immigration system in other ways. Federal agencies responsible for implementing the previously announced executive actions are establishing stakeholder engagement plans separate from this RFI. Do not submit responses detailing recommendations directly related to the actions announced on November 20, as separate processes exist to engage regarding those actions where necessary. For more information, see:

<http://www.dhs.gov/immigration-action>

<http://www.uscis.gov/immigrationaction>

<http://www.dol.gov/dol/fact-sheet/immigration/perm.htm>

FOR FURTHER INFORMATION CONTACT: Laura Dawkins, Chief of the Regulatory Coordination Division, USCIS Office of Policy and Strategy, 20 Massachusetts Avenue NW, Washington, DC 20529-2140; Telephone number 202-272-8377.

SUPPLEMENTARY INFORMATION:

On November 21, 2014, President Obama issued a Presidential Memorandum directing the Secretaries of State and Homeland Security to lead an interagency effort, in consultation with private and nonfederal public stakeholders, to develop within 120 days recommendations on streamlining and reforming the Nation's legal immigration system, while safeguarding the interests of American workers, including recommendations to:

- (i) streamline and improve the legal immigration system -- including immigrant and nonimmigrant visa processing -- with a focus on reforms that reduce Government costs, improve services for applicants, reduce burdens on employers, and combat waste, fraud, and abuse in the system;

(ii) ensure that administrative policies, practices, and systems use all of the immigrant visa numbers that Congress provides for and intends to be issued, consistent with demand; and

(iii) modernize the information technology infrastructure underlying the visa processing system, with a goal of reducing redundant systems, improving the experience of applicants, and enabling better public and congressional oversight of the system.

The Memorandum further directs the Secretaries of State and Homeland Security to establish metrics for measuring progress in implementing these recommendations and in achieving service-level improvements, taking into account the Federal Government's responsibility to protect the integrity of U.S. borders and promote economic opportunity for all workers.

Along with general comments and suggestions, the Departments of State and Homeland Security are also specifically seeking input on the following questions. To the extent possible and wherever appropriate, responses to this RFI should indicate the question number(s) and include, for each recommended action, (a) clear prioritization of which actions are most important and consequential; (b) estimates of the number of individuals affected, time saved, private and public costs saved, general economic benefit, or other impact metrics as appropriate; (c) legal authorities under existing statutes and case law; and (d) suggested government performance metrics as described above. Concrete recommendations are more useful than general observations. Such proposals need not be limited to the activities of the Department of State and the Department of Homeland Security, as the Memorandum also contemplates roles for the Departments of Agriculture, Commerce, Justice, Labor, and Education, and other departments and agencies as relevant. Note that responses should not include the modernization

of the PERM labor certification program, as the Department of Labor has provided for a separate process to engage stakeholders on modernized recruitment and application requirements in this program, which applies to permanent workers; for more details, see:

<http://www.dol.gov/dol/fact-sheet/immigration/perm.htm>

I. Streamlining the Legal Immigration System

1. What are the most important policy and operational changes that would streamline and improve the processing of immigrant visas at U.S. Embassies and Consulates, for both family-sponsored and employment-based immigrant visas?
2. What are the most important policy and operational changes that would streamline and improve the processing of nonimmigrant visas at U.S. Embassies and Consulates, including visitor, student, temporary worker and other nonimmigrant visas?
3. What are the most important policy and operational changes that would streamline and improve U.S. Citizenship and Immigration Services (USCIS) processing of the following types of immigrant and nonimmigrant visa petitions?
 - a. Family-sponsored immigrant visa petitions
 - b. Employment-based immigrant visa petitions
 - c. Nonimmigrant petitions
 - d. Humanitarian petitions and applications (such as U nonimmigrant status petitions, T nonimmigrant status applications, and VAWA self-petitions)
 - e. H-1B temporary worker visa petitions, specifically, ways to reduce burdens on employers and workers engaging in the H-1B petition process, consistent with protections for U.S. and temporary foreign workers. (Note that employment authorization for certain H-4 dependent spouses of H-1 B nonimmigrants was a

part of the President's November 20 announcement described above, and recommendations regarding that topic should not be submitted here.)

4. What are the most important policy and operational changes that would streamline and improve the process of changing from one nonimmigrant status to another nonimmigrant status?
5. What are the most important policy and operational changes that would streamline and improve the process of applying for adjustment of status to that of a lawful permanent resident while in the United States?
6. What are the most important policy and operational changes that would streamline and improve the inspection of arriving immigrants and nonimmigrants at U.S. ports of entry?
7. What are the most important policy and operational changes that would attract the world's most talented researchers to U.S. universities, national laboratories, and other research institutions? (Do not submit responses directly related to the actions announced on November 20, including the strengthening and extending of the Optional Practical Training program for foreign students. Separate processes exist to engage regarding those actions where necessary; see details above.)
8. What are the most important policy and operational changes that would attract the world's most talented entrepreneurs who want to start and grow their business in the United States? (Do not submit responses directly related to the actions announced on November 20, including the "national interest waiver" and "significant public benefit" parole pathways for entrepreneurs. Separate processes exist to engage regarding those actions where necessary; see details above.)

9. What are the policy or operational changes that could assist in creating additional immigration opportunities for high-demand professions, such as physicians?
10. Focusing on the EB-5 immigrant investor visa, what policy or operational changes would (a) reduce existing burdens and uncertainties on the part of petitioners, Regional Centers, and other participants in the program; (b) ensure that this program is achieving the greatest impact in terms of U.S. job creation, economic growth, and investment in national priority projects that the capital markets would not otherwise competitively finance; and (c) enhance protections against fraud, abuse, and criminal misuse of the program by petitioners or Regional Centers?
11. How can labor market related requirements for *temporary* workers be best tailored to meaningfully protect both U.S. and temporary foreign workers while achieving operational efficiency for both employers and relevant Federal agencies?
12. How should relevant occupational categories, descriptors, and/or data, such as the Department of Labor's O*NET system (<http://www.onetonline.org>) be refined and updated to better align the prevailing wage determination process for visas with the evolving job market?
13. Focusing on the diversity visa program, what are the most important policy and operational changes that would streamline and improve the diversity visa process, including enhancing protections against fraud?
14. What other policy and operational changes would most effectively combat waste, fraud, and abuse in the legal immigration system?

II. Ensuring Use of All Immigrant Visa Numbers

15. What are the most important policy and operational changes, if any, available within the existing statutory framework to ensure that administrative policies, practices, and systems fully and fairly allocate all of the immigrant visa numbers that Congress provides for and intends to be issued each year going forward?
16. What are the most important policy and operational changes, if any, available within the existing statutory framework to ensure that administrative policies, practices, and systems fully and fairly allocate all of the immigrant visa numbers that Congress provided for and intended to be issued, but were not issued in past years?

III. Modernizing IT Infrastructure

17. From the perspective of petitioners and applicants, which elements of the current legal immigration system (both immigrant and nonimmigrant systems) are most in need of modernized information technology (IT) solutions, and what changes would result in the most significant improvements to the user experience?

18. Which existing government-collected data and metrics would be most valuable to make available to the public, consistent with privacy protections and national security, in order to improve oversight and understanding of the legal immigration system?

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